

REFERENCE TITLE: liquor; microbreweries; producers

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## **HB 2713**

Introduced by  
Representatives McComish, Reagan

AN ACT

AMENDING SECTIONS 4-205.04, 4-243.01 AND 4-243.02, ARIZONA REVISED STATUTES;  
AMENDING LAWS 2005, CHAPTER 284, SECTION 15; RELATING TO LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 4-205.04, Arizona Revised Statutes, is amended to  
3 read:

4 **4-205.04. Domestic farm winery or domestic microbrewery**  
5 **license; issuance; regulatory provisions; retail**  
6 **site**

7 A. The director may issue a domestic farm winery or domestic  
8 microbrewery license to any domestic farm winery or domestic  
9 microbrewery. Each location ~~which~~ THAT engages in producing and bottling  
10 these products must obtain a separate domestic farm winery or domestic  
11 microbrewery license, but both such licenses may be issued for a common  
12 location. The licensee may not transfer the domestic farm winery or domestic  
13 microbrewery license from person to person or from location to location.

14 B. An applicant for a domestic farm winery or domestic microbrewery  
15 license ~~shall~~, at the time of filing the application for the license, SHALL  
16 accompany the application with the license fee. Persons holding a domestic  
17 farm winery or domestic microbrewery license shall report annually at the end  
18 of each fiscal year, at such time and in such manner as the director may  
19 prescribe, the amount of wine or beer manufactured by them during the fiscal  
20 year. If the total amount of wine or beer manufactured during the year  
21 exceeds the amount permitted annually by the license, the licensee shall  
22 apply for and receive an in-state producer's license.

23 C. Notwithstanding any other statute, a licensed domestic farm winery  
24 may sell wine produced or manufactured on the premises in the original  
25 container for consumption on or off the premises and may make sales and  
26 deliveries of wine to persons licensed to sell wine under this title. A  
27 licensed domestic farm winery may serve wine produced or manufactured on the  
28 premises for the purpose of sampling the wine.

29 D. A licensed domestic farm winery is subject to ~~all~~ BOTH of the  
30 following requirements:

31 1. The winery shall produce not less than two hundred gallons and not  
32 more than seventy-five thousand gallons of wine annually from grapes or other  
33 suitable agricultural products of which at least seventy-five per cent are  
34 grown in this state. The director may allow a percentage of out-of-state  
35 agricultural products greater than twenty-five per cent in wine manufactured  
36 or produced by a licensed domestic farm winery if the licensed domestic farm  
37 winery can demonstrate to the satisfaction of the director that sufficient  
38 in-state agricultural products are not available because of an unexpected  
39 failure of suitable in-state crops due to natural causes. The exemption  
40 shall remain in effect only for the period of time during which such  
41 shortages actually exist.

42 2. The winery may purchase and sell wine produced from a domestic farm  
43 winery if the retail sale of the wine is conducted from the same site as the  
44 location of the winery.

45 E. Notwithstanding any other statute, a licensed domestic microbrewery  
46 may sell beer produced or manufactured on the premises for consumption on or

off the premises ~~and may make sales and deliveries of beer to persons licensed to sell beer under this title, including wholesalers licensed under this title.~~ A licensed domestic microbrewery may serve beer produced or manufactured on the premises for the purpose of sampling the beer. A licensed domestic microbrewery is subject to all of the following requirements:

1. The microbrewery shall produce not less than ten thousand gallons of beer in each year following the first year of operation.

2. The microbrewery shall not produce more than ~~three~~ NINE hundred ~~ten~~ THIRTY thousand gallons of beer annually.

3. If retail operations are conducted in conjunction with the microbrewery, these retail operations shall be conducted from the same site as the location of the microbrewery.

4. The microbrewery may sell other spirituous liquor products if:

(a) The microbrewery holds an on-sale retail license.

(b) The retail sale of the spirituous liquor is on or adjacent to the premises of the microbrewery.

F. A person who holds a domestic microbrewery license that meets the requirements of this section and who is not otherwise engaged in the business of a distiller, vintner, brewer, rectifier, blender or other producer of spirituous liquor in any jurisdiction may hold other on-sale retail licenses. The person shall purchase all spirituous liquor for sale at the other on-sale retail premises from wholesalers who are licensed in this state, EXCEPT THAT THE PERSON MAY DISTRIBUTE MICROBREWERY PRODUCTS PRODUCED AT THE PERSON'S MICROBREWERY TO THAT PERSON'S RETAIL LICENSEES.

G. The director shall adopt rules in order to administer this section.

Sec. 2. Section 4-243.01, Arizona Revised Statutes, is amended to read:

4-243.01. Purchasing from other than primary source of supply unlawful: definitions

A. It is unlawful:

1. For any supplier to solicit, accept or fill any order for any spirituous liquor from any wholesaler in this state unless the supplier is the primary source of supply for the brand of spirituous liquor sold or sought to be sold and is duly licensed by the board.

2. For any wholesaler or any other licensee in this state to order, purchase or receive any spirituous liquor from any supplier unless the supplier is the primary source of supply for the brand ordered, purchased or received.

3. Except as provided by ~~section~~ SECTIONS 4-205.04 AND 4-243.02, for a retailer to order, purchase or receive any spirituous liquor from any source other than any of the following:

(a) A wholesaler who has purchased the brand from the primary source of supply.

(b) A wholesaler who is the designated representative of the primary source of supply in this state and who has purchased such spirituous liquor

1 from the designated representative of the primary source of supply within or  
2 without this state.

3 (c) A registered retail agent pursuant to section 4-101.

4 (d) A domestic farm winery ~~or domestic microbrewery~~ licensed under  
5 section 4-205.04.

6 B. All spirituous liquor shipped into this state shall be invoiced to  
7 the wholesaler by the primary source of supply. All spirituous liquor shall  
8 be unloaded and remain at the wholesaler's premises for at least twenty-four  
9 hours. A copy of each invoice shall be transmitted by the wholesaler and the  
10 primary source of supply to the department of revenue.

11 C. The director may suspend for a period of one year the license of  
12 any wholesaler or retailer who violates this section.

13 D. Upon determination by the department of revenue that a primary  
14 source of supply has violated this section, no wholesaler may accept any  
15 shipment of spirituous liquor from such primary source of supply for a period  
16 of one year.

17 E. For the purposes of this section:

18 1. "Primary source of supply" means the distiller, producer, owner of  
19 the commodity at the time it becomes a marketable product, bottler or  
20 exclusive agent of any such distributor or owner. In the case of imported  
21 products, the primary source of supply means either the foreign producer,  
22 owner, bottler or agent or the prime importer from, or the exclusive agent  
23 in, the United States of the foreign distiller, producer, bottler or owner.

24 2. "Wholesaler" means any person, firm or corporation that is licensed  
25 in this state to sell to retailers and THAT is engaged in the business of  
26 warehousing and distributing brands of various suppliers to retailers  
27 generally in the marketing area in which the wholesaler is located.

28 Sec. 3. Section 4-243.02, Arizona Revised Statutes, is amended to  
29 read:

30 4-243.02. Sale of beer or distilled spirits by producer:  
31 limitations

32 A person who holds ~~an in state~~ A producer's license may sell beer OR  
33 DISTILLED SPIRITS produced by the ~~in state~~ producer through the producer's  
34 own on-sale retail premises if:

35 1. The ~~in state~~ producer also holds an on-sale retail license.

36 2. The retail sale of the beer OR DISTILLED SPIRITS is on or adjacent  
37 to the premises of the ~~in state~~ producer.

38 Sec. 4. Laws 2005, chapter 284, section 15 is amended to read:

39 Sec. 15. Temporary transfers of licenses

40 Between July 1, ~~2006 2007~~ and December 31, ~~2007~~ 2008, bar, beer and  
41 wine bar and liquor store licenses may be transferred from counties with a  
42 population of five hundred thousand or more persons to counties with a  
43 population of less than five hundred thousand persons.